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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,359	04/02/2001	Samuel L. Thomasson	10205.029	9367

7590

03/27/2006

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EXAMINER

SINGH, RAMNANDAN P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/824,359

Applicant(s)

THOMASSON ET AL.

Examiner

Ramnandan Singh

Art Unit

2646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-7.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

11. Continuation sheet:

(A) Replacement sheet 2 of the drawings is approved.

(B) Applicant's arguments have been considered but they are not persuasive.

(i) Applicant's argument----"Where is the connection disclosed between the up/down counter of Fig. 1F and first counter 38, 48 ?" on page 2.

Examiner's response--- Regarding "first counter 38, 48", the refererrals "38" and ""48" do not refer to "first counter" as noted above. Rather, the referral "38" refers to "threshold detector" in Fig. 3A [col. 7, lines 17-18]; and the referral "48" refers to "threshold detector" in Fig. 5A [col. 10, lines 24-27], wherein n-bit up counter 46A is connected to threshold detector 48 [Fig. 5A]. Further, it may be noted that Fig. 5A illustrates implementation of an accumulator 37A in Fig. 3A using a counter [col. 7, lines 23-25].


(ii) Applicant's argument----" Where is the teaching to substitute the elements in FIGS. 3A, 5A for exclusive-NOR circuit 19A ?" on page 2.

Examiner's response ---Examiner respectfully disagrees. There is no substitution of the elements in Figs. 3A, 5A for the exclusive-NOR circuit 19A in Fig. 1F. Applicant is directed to Ku et al [col. 7, lines 9-32] wherein Fig. 5A illustrates the implemetation of convoluter 37 in Fig. 3A based on exclusive-NOR operation. As such, they represent multiple embodiments of the invention based on different implementations, not substitutions.

(iii) Applicant's argument----" Where is the teaching to additively combine elements from various figures ? The correlators in Figs. 1F, 3A, and 5F are disclosed as alternative circuits providing a function. It is respectfully submitted that the disclosure of the Ku et al patent merely describes the existence of the elements, not the arrangement proposed by the Examiner" on page 2.

Examiner's response---Examiner respectfully disagrees. Ku et al teach their invention having multiple embodiments based on different implementations. Further, Fig. "5F" as quoted above should be Fig. 5A. In response to applicant's argument that there is no suggestion to combine the multiple embodiments of the Ku's invention, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the embodiments themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the arrangement relates to a robust tone detector that combines the results of convolution of an input signal with reference signals of multiple phases prior to comparison with a threshold.

ENG


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